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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\* \* \* \* \*  
\*UNITED STATES OF AMERICA \*  
\* CRIMINAL ACTION  
\* No. 09-10332-RGS  
\*  
\* v. \*  
\* DAVID LAPERLE \*  
\* \* \* \* \*

BEFORE THE HONORABLE RICHARD G. STEARNS  
UNITED STATES DISTRICT JUDGE  
PLEA HEARING  
February 17, 2011

APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE, (By AUSA Kenneth  
Shine), 1 Courthouse Way, Suite 9000, Boston,  
Massachusetts 02210, on behalf of the United States of  
America

OFFICE OF THE FEDERAL PUBLIC DEFENDER, (By Syrie  
Fried, Esq.) 55 Sleeper Street, Boston, Massachusetts  
02210, on behalf of Defendant

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## P R O C E E D I N G S

THE CLERK: All rise for the Honorable Court.

Court is open. You may be seated.

The case before this Court carries Case No. 09cr10332,  
United States of America versus David Laperle.

Counsel, please identify yourselves for the record.

MR. SHINE: Your Honor, good morning. Kenneth  
Shine on behalf of the United States Government.

MS. FRIED: Good morning, your Honor. Syrie Fried  
on behalf of David Laperle, who is present in court.

THE COURT: Ms. Fried, I understand that your  
client is offering to change his plea to a one-count bank  
robbery indictment, that there is no written, but perhaps  
there is an informal, agreement.

MS. FRIED: There is no written plea agreement, and  
there is one subject area on which there is an informal  
understanding between the parties, which I will tell the  
Court about.

The offense conduct in the indictment is January 9,  
2009.

Mr. Laperle was arrested by state authorities for  
offenses that he is now serving a sentence on. He was  
arrested one week later on January 16, 2009, and was  
sentenced. And those were for, essentially -- I think it  
was receiving a stolen motor vehicle and unauthorized use,

1 but it was what I would call relevant conduct as to this  
2 offense because the evidence that would have been admitted  
3 in court, had this case gone to trial, was recovered as a  
4 result of the incident that lead to his arrest on these  
5 state court motor vehicle charges.

6 And, in fact, there was a theft of currency charge that  
7 had been originally brought on the state side but which was  
8 dropped in favor of this bank robbery prosecution. But  
9 robbery proceeds were found in the car, et cetera, et  
10 cetera.

11 But, to sort of try to cut to the chase a little bit,  
12 he's been doing a state court sentence on that and has about  
13 two years' -- a little bit more than two years' time in on  
14 that case, which, under federal law, cannot be credited  
15 toward any sentence that this Court would impose in this  
16 case under 3585; 18, United States Code, Section 3585.

17 So the understanding between the parties is that we  
18 would urge the Court that it would be appropriate for a  
19 downward adjustment to whatever sentence the Court decides  
20 to impose on this robbery, but that would be sort of what  
21 would amount to a 5G1.3 type of downward adjustment to take  
22 into account the fact that he's doing an undischarged term  
23 of the imprisonment for conduct that the Federal Bureau of  
24 Prisons would not give him jail credit for on this case but  
25 which is related to this offense conduct.

1 THE COURT: So a downward adjustment to reflect  
2 credit for the state time he is serving as opposed --

3 MS. FRIED: Right, which, as of today, is  
4 approximately two years.

5 THE COURT: Okay.

6 MS. FRIED: But that's approximate.

7 THE COURT: Okay.

8 Let's -- that's agreeable.

9 MS. FRIED: With that, my client is ready to be  
10 inquired of.

11 THE CLERK: Mr. Laperle.

12 Count One of the indictment filed by the United States  
13 attorney charges you with bank robbery, in violation of  
14 Title 18, United States Code, Section 2113(a), and aiding  
15 and abetting, in violation of 18, United States Code,  
16 Section 2, to which count you have previously pled "not  
17 guilty."

18 Do you now wish to change your plea?

19 THE DEFENDANT: Yes, I do.

20 THE COURT: How do you plead to Count One?

21 THE DEFENDANT: I plead guilty.

22 THE COURT: Please raise your right hand.

23 **DAVID ALAN LAPERLE, sworn**

24 THE CLERK: Would you please take a seat in the  
25 witness box.

1 Counsel, would you join him.

2 (Pause in proceedings.)

3 THE COURT: Mr. Laperle, my name is Richard  
4 Stearns. As is self-evident, I am a Judge of the United  
5 States District Court.

6 I am going to ask you some questions, and the reason  
7 for the questions is that I am required to make my own  
8 determination that your decision to plead guilty is a  
9 voluntary decision, and one made with full knowledge of the  
10 consequences of pleading guilty.

11 So if any question I ask seems confusing or imprecise,  
12 either ask me to rephrase it, or feel free to consult with  
13 Ms. Fried before you answer, okay?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: For the record, can you tell us your  
16 full name.

17 THE DEFENDANT: David Alan Laperle.

18 THE COURT: How old are you, Mr. Laperle?

19 THE DEFENDANT: I'm 54 years old.

20 THE COURT: Fifty-four?

21 Were you born in Massachusetts?

22 THE DEFENDANT: Yes, sir, I was.

23 THE COURT: Where?

24 THE DEFENDANT: I was born at St. Elizabeth's  
25 Hospital in Brighton.

1 THE COURT: Did your family stay in Brighton, or  
2 where you did you grow up?

3 THE DEFENDANT: I believe at the time my family was  
4 living in Newton, Mass., your Honor.

5 THE COURT: And then where did you go to school?

6 THE DEFENDANT: I grew up and went to school in  
7 Ashland, Massachusetts.

8 THE COURT: Ashland?

9 How far did you go in school?

10 THE DEFENDANT: I did not graduate high school, but  
11 I did receive a GED later in life.

12 THE COURT: What grade did you leave school?

13 THE DEFENDANT: I never completed the 9th grade.

14 THE COURT: Never completed the 9th?

15 Did you work after?

16 THE DEFENDANT: I did, yes, sir.

17 THE COURT: What kinds of work have you done?

18 THE DEFENDANT: Mostly landscaping, jobs in  
19 irrigation installation, your Honor.

20 THE COURT: Where are you living now? I mean  
21 before the incarceration.

22 THE DEFENDANT: Before the incarceration I was  
23 living in Boston.

24 THE COURT: In Boston?

25 THE DEFENDANT: Yes.

1 THE COURT: Are you married?

2 THE DEFENDANT: I'm divorced, your Honor.

3 THE COURT: Children?

4 THE DEFENDANT: I have two grown children, yes,  
5 sir.

6 THE COURT: They're adults?

7 THE DEFENDANT: Yes, they are.

8 THE COURT: Are they living in Massachusetts?

9 THE DEFENDANT: They both live in Massachusetts,  
10 your Honor.

11 THE COURT: How old are they?

12 THE DEFENDANT: My oldest daughter is 30, and my  
13 younger girl is 23.

14 THE COURT: So probably grandchildren?

15 THE DEFENDANT: I also have two young grandsons,  
16 your Honor.

17 THE COURT: This question I don't mean to be  
18 intrusive. I'm required to ask it.

19 Have you ever been treated for any mental condition or  
20 psychological problem?

21 THE DEFENDANT: I have had counseling for  
22 depression, your Honor.

23 THE COURT: Are you taking any medication or  
24 prescription drugs?

25 THE DEFENDANT: No, I am not.

1 THE COURT: When was the most recent --

2 Again, I don't want to pry too much, but was this in  
3 the past, or is this something recent?

4 THE DEFENDANT: It's not ongoing, I wouldn't say,  
5 at this time.

6 THE COURT: So as far as you're concerned as you  
7 sit here, your mind is clear and you understand the nature  
8 of the proceedings.

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Did you do military service, by the  
11 way?

12 THE DEFENDANT: Yes, your Honor. I was in the  
13 Army.

14 THE COURT: For how long?

15 THE DEFENDANT: Approximately two years.

16 THE COURT: Honorably discharged?

17 THE DEFENDANT: General discharge.

18 THE COURT: I know she has, because she is very  
19 thorough; but, for the record, I have to ask. Has Ms. Fried  
20 discussed the indictment with you, the charging document?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Perhaps more importantly, has she  
23 explained to you each of the elements of this offense? By  
24 "elements" a lawyer means the components of the offense  
25 charged that the government would have to prove beyond a



1 reasonable doubt to obtain a conviction.

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Okay.

4 I mean, it's pretty straightforward, so I will be very  
5 brief.

6 "Bank robbery," we know what that is.

7 This alleges that on January 9, obviously the bank was  
8 in Cambridge, it was insured by the Federal Deposit  
9 Insurance Company. The government has to prove that to have  
10 jurisdiction over what otherwise would be a state crime.

11 And it basically charges that you took, and this is the  
12 way the law is phrased, "by force and violence and by  
13 intimidation," that means by offer of harm to someone, you  
14 took money that was otherwise under their possession and  
15 control, and it specifies that the amount here is slightly  
16 under \$15,000.

17 You understand that each of those things the government  
18 would have to prove beyond a reasonable doubt?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Federal insurance, offer of harm or  
21 actual physical contact with someone who actually had  
22 custody of the money and who turned the money over,  
23 transferred it to your possession, as a result.

24 That's all clear?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Let's establish, Mr. Shine, for the  
2 record what the maximum statutory penalties are for the  
3 offense.

4 MR. SHINE: The maximum statutory penalties for  
5 this violation is 20 years in prison, followed by three  
6 years of supervised release, a fine of \$250,000, and a  
7 mandatory \$100 special assessment.

8 There are no minimum mandatories that apply.

9 THE COURT: Mr. Laperle, you understand that these  
10 are the statutory maximums. In other words, if you went to  
11 the statute books, this would be the maximum sentence that  
12 Congress has authorized a judge to impose.

13 THE DEFENDANT: Yes. I understood that.

14 THE COURT: More relevant, I suppose, are the  
15 Sentencing Guidelines.

16 Do you have a working estimate of how they apply?

17 MR. SHINE: There are two schools of thought. I  
18 will be very fair to Mr. Laperle. There was a pre-plea PSR  
19 done. Under the pre-plea PSR, Mr. Laperle would be  
20 classified as a career offender and, therefore, would be in  
21 a Guideline range as a career offender of 151 to 188 months.

22 The second view, which is not the government's  
23 position, if he were not to be a career offender, the  
24 Guideline range could be 70 to 87 months, or in that kind of  
25 range.

1 THE COURT: By career offender, we're talking about  
2 the Guideline provision, not the armed career --

3 MR. SHINE: That's correct, your Honor, the  
4 Guideline provision of the career offender, having  
5 established at least two prior felonies, or crimes of  
6 violence, within a delineated statutory period.

7 THE COURT: So under the first theory, where is the  
8 criminal history category?

9 MR. SHINE: The criminal history category would  
10 commence at 32, with three points for acceptance of  
11 responsibility, to a 29.

12 I'm sorry.

13 The base level would be 32, with three points to 29.

14 The Criminal History Category would at VI under the  
15 Career Offender Guidelines.

16 THE COURT: Under the second view?

17 MR. SHINE: Under the second view, the defendant's  
18 base level would be twenty --

19 MS. FRIED: I think it's 22.

20 MR. SHINE: Twenty-two, with acceptance of  
21 responsibility, and his Criminal History Category is 14,  
22 which would be six points.

23 MS. FRIED: Your Honor, there was a pre-plea  
24 sentence report done in the case.

25 THE COURT: For some reason I don't recall it.

1 MS. FRIED: It was done a while back. But, in  
2 light of Holloway, that throws into doubt one of the  
3 predicates.

4 THE COURT: This is the stepping back from the  
5 categorical --

6 MS. FRIED: That's right, with the assault and  
7 battery. There are a number of assault and battery  
8 convictions, or AB-PO, AB-DW, which is all thrown into  
9 question now. In fact, the First Circuit has in front of it  
10 a case that's precisely on question.

11 THE COURT: Actually, it's one of my cases which  
12 predated Holloway.

13 MS. FRIED: Dancy.

14 THE COURT: The Dancy case.

15 I think they argued --

16 MS. FRIED: It just was argued a week and a half  
17 ago.

18 THE COURT: So by the time of sentencing here, we  
19 will have the answer.

20 MS. FRIED: We probably will have an answer on  
21 that.

22 MR. SHINE: Just for the record, the predicate in  
23 question is an AB-DW. The government's view was that  
24 Holloway did not address the AB-DW. It primarily only  
25 addressed the assault and battery. And it's the

1 government's view that the AB-DW does count as a predicate  
2 in that regard.

3 THE COURT: I will see the Dancy opinion and then  
4 resolve this.

5 MR. SHINE: Absolutely, Judge.

6 THE COURT: I hope this is not too confusing,  
7 Mr. Laperle, but let me try to untangle this web.

8 The Sentencing Guidelines are this thick book of  
9 directives (indicating) that an agency created by Congress  
10 has generated over the years that came into existence in the  
11 1980s when Congress became concerned about what appeared to  
12 be large discrepancies and disparities in the sentencing  
13 practices among federal judges. Some judges were sentencing  
14 very severely; others very leniently, for what seemed to be  
15 similar defendants who had committed largely similar crimes.

16 And the more Congress studied the issue, the more  
17 disturbed they got because it seemed there were extraneous  
18 factors that were the only way you could explain why these  
19 disparities existed.

20 Geography mattered a lot. Depending on what part of  
21 the country the crime was committed, you could get a much  
22 different sentence than another part of the country. Gender  
23 mattered a great deal. Embarrassingly enough, factors like  
24 ethnicity and race seemed to be influencing sentencing  
25 decisions.

1 I think probably more revealing, when all the studies  
2 were done, is that a lot of sentencing seemed to be really  
3 the personal philosophy that the judge in question brought  
4 to sentencing issues.

5 Congress wanted more uniformity. To do that, they  
6 created a Commission called the "United States Sentencing  
7 Commission," and told them to go out and figure out how to  
8 accomplish this goal.

9 The Commission did some very serious work but came up  
10 with a very simple solution, which was, we can make this  
11 work by simply taking away most of the discretion judges  
12 have in sentencing matters; not all, but a lot.

13 So they created this Guidelines system, and this is  
14 what Mr. Shine was referring to when these numbers started  
15 to be thrown around.

16 The numbers are important because they're called an  
17 "offense level." There are all kinds of factors that go  
18 into calculating the offense level: The crime itself,  
19 whether, as you're doing, someone has accepted  
20 responsibility which causes a downward adjustment in the  
21 level, the prior criminal history which determines the  
22 criminal history category. There is a provision, which is  
23 obviously going to be argued, called the "career criminal"  
24 provision, which escalates the criminal history category up,  
25 and, therefore, impacts the Guidelines.

1 But the underlying idea, even though its application is  
2 not always easy, is simple. The Commission went through the  
3 Federal Criminal Code and ranked offenses by perceived level  
4 of seriousness from the least to, what they thought were,  
5 the most serious offenses on a scale of one to forty-three.  
6 That's the offense level.

7 That level, once it's adjusted and then calculated and  
8 the criminal history category is factored in, is important  
9 because it is keyed to a range of months, expressed as a  
10 minimum and a maximum. And typically the judge, the way the  
11 system was originally conceived, was expected to sentence  
12 within that range with some exceptions. The judge has a  
13 fair amount of authority to engage in what were called  
14 "departures," to go up above or down below.

15 Over time, though, as Courts of Appeals began to  
16 analyze the Guidelines, they began to take on more and more  
17 of a mandatory aspect until we got to a point five years ago  
18 where there was almost no discretion left for judges in the  
19 Guideline system.

20 Now, the Supreme Court got alarmed because they thought  
21 that that was not consistent with the constitutional  
22 function of a judge; that a judge is supposed to be bringing  
23 judgment, as the name would imply, to sentencing, and is  
24 supposed to be ensuring that the sentence imposed is a just  
25 one, that is, that it fits the circumstances of the

1 defendant and the crime and then the various societal  
2 interests that are at play. Obviously society has a  
3 interest in deterring people generally, sometimes deterring  
4 people specifically. Society has an interest, as does a  
5 defendant, in the opportunity for rehabilitation, you know,  
6 for consideration of past good deeds, prospect for future  
7 good deeds, or bad deeds, as the case might be. All the  
8 kinds of things that would occur to anyone ought to enter  
9 into the judgment.

10 So the Court said, Look, we recognize that the  
11 Guidelines have distilled a lot of experience and wisdom,  
12 but we want judges to do the following: Look first to the  
13 Guidelines. Look at the recommended result. If it's a  
14 reasonable one, impose the sentence accordingly. If it  
15 doesn't fit the crime or the defendant, use your judgment,  
16 use your discretion.

17 So, in other words, judges were handed back a great  
18 deal of the discretion they had before the system became a  
19 largely mandatory one.

20 This is a long way of getting to the fact that, at the  
21 end of the day, I have to make the ultimate judgment about  
22 the sentence.

23 There may be disagreement -- in fact, it sounds like  
24 there will be between your counsel and the government.

25 There is agreement between counsel, which, I will tell



1       you now, I will respect, which is to at least adjust the  
2       sentence to reflect credit for the state time that you are  
3       serving. But, after that, with the help of the lawyers and  
4       their arguments, I have got to make the final decision, and  
5       simple displeasure with how I go about doing my job is not a  
6       basis for withdrawing a plea.

7               Do you understand that?

8               THE DEFENDANT: Yes.

9               THE COURT: Do you have any questions about the  
10       sentencing system? It's a little bit more complicated  
11       than -- I was a State Court Judge, and it was not quite as  
12       formal there as it is here. So if there is anything that --

13              THE DEFENDANT: No. That was a very good  
14       explanation. I think I understand, yes.

15              THE COURT: You do understand that by pleading  
16       guilty you give up your right to have your case tried before  
17       a jury?

18              THE DEFENDANT: Yes. Yes, I do, yes.

19              THE COURT: Have you any prior experience with  
20       juries?

21              THE DEFENDANT: No, your Honor.

22              THE COURT: Never seen a jury trial, served as a  
23       juror --

24              THE DEFENDANT: No, I have not.

25              THE COURT: -- had one of your cases tried before a

1 jury?

2 THE DEFENDANT: No, your Honor.

3 THE COURT: Under the U.S. Constitution, judges are  
4 given a great deal of authority over matters of law, but if  
5 the defendant or the government insists on it, in any  
6 important or serious criminal case, that is, in any felony  
7 case, the decision as to whether someone is "guilty" or "not  
8 guilty" is made not by the judge but by a citizen jury.

9 There's a panel of 12 persons chosen from, in our case,  
10 eastern Massachusetts randomly by computer who are summonsed  
11 to court on the day of the trial. They're interviewed then,  
12 mostly by the judge but with the lawyers helping, to  
13 determine their eligibility to sit on the case that is to be  
14 tried. As the jury is being seated, a defendant can object  
15 to the seating of any ten jurors that, for whatever reason,  
16 he does not want to sit on his trial, as the government can  
17 object to any six.

18 Once seated, I explain to the jurors that they will  
19 listen to the evidence and, at the end of the day, will have  
20 to be unanimous; that is, they all must agree as to whether  
21 a defendant is guilty or not guilty of the offense being  
22 tried.

23 So when I say that you give up your right to have your  
24 case tried before a jury, I mean not only the right to have  
25 a jury decide whether you are guilty or not guilty of this

1 offense, but also the right to participate in the selection  
2 of the very jury that would make that decision.

3 Do you understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Do you understand that you would have  
6 the right to have Ms. Fried, a very capable lawyer, assist  
7 you throughout the jury selection process and throughout the  
8 trial of the case?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Do you understand that I would instruct  
11 the jury that they must presume you innocent unless and  
12 until the government succeeded in proving your guilt beyond  
13 a reasonable doubt?

14 THE DEFENDANT: Yes, I do.

15 THE COURT: Do you understand that the burden of  
16 proof in a criminal trial, one that the government carries  
17 throughout the trial, is "proof beyond a reasonable doubt,"  
18 a very, very high standard of proof?

19 THE DEFENDANT: Yes, I understand.

20 THE COURT: The practical consequence of that means  
21 that you would have no obligation to prove your innocence,  
22 to produce evidence, to call witnesses, nor certainly could  
23 you ever be compelled to testify at the trial.

24 Do you understand that?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Do you understand also, on the other  
2 hand, by pleading guilty, you give up the right to testify  
3 before the jury in your own defense if you should choose to  
4 do so or to offer witnesses or evidence that you think might  
5 be exculpatory or mitigating?

6 THE DEFENDANT: I understand that, yes.

7 THE COURT: Do you understand that you give up the  
8 right to confront the witnesses against you? That's a  
9 lawyer's term of art for cross-examination, that is, to have  
10 your lawyer, Ms. Fried, question the government's witnesses.

11 THE DEFENDANT: Yes, I do.

12 THE COURT: And do you understand that you give up  
13 the right to remain silent, at least for purposes of today's  
14 proceedings?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Let me ask Mr. Shine to summarize for  
17 us the evidence he would present if the case did go to trial  
18 before a jury, and, when he finishes, I have to then ask you  
19 if you are taking responsibility, that is, if you agree,  
20 that you are responsible for the important aspects of the  
21 government's proof, those aspects that go to the elements of  
22 the offense.

23 MR. SHINE: Your Honor, should this case go to  
24 trial, the government's evidence would prove the following:

25 On January 9, 2009, at approximately 1:07 in the

1 afternoon, the Cambridge Trust Company, located at 1720  
2 Mass. Ave. in Cambridge was robbed.

3 The bank surveillance photographs show that the robber  
4 was wearing a dark, hooded blue sweatshirt over his head,  
5 blue jeans, black shoes and a mask over his nose and face.

6 Following the robbery, tellers were interviewed by the  
7 FBI's Violent Crime Task Force.

8 The tellers would indicate that this individual walked  
9 into the bank, climbed over the counter and stated to the  
10 tellers, Open your drawer, Open your bottom drawer.

11 He took money out of a female teller's drawer and  
12 afterwards went to the desk and took money from another  
13 drawer. When he took that money, he took with it bait money  
14 and a red dye pack.

15 After climbing over the teller's counter, he fled the  
16 bank in an unknown direction. The victim tellers described  
17 the robber as a white male, 5 foot 11, slender, wearing a  
18 black hooded sweatshirt, sun glasses, blue jeans and white  
19 gloves.

20 A post-robbery audit was conducted by the bank, and it  
21 determined that the loss amount was \$14,775.

22 On January 15, a few days later, the FBI received a tip  
23 from the Milford Police Department that an individual by the  
24 name of David Laperle, of Waterbury, Connecticut, had  
25 checked into La Quinta Hotel in Milford, and at that time

1 the individual had used red dye-stained money to pay for the  
2 hotel room, and were basically calling to find out, you  
3 know, is there anybody you're looking for that might have  
4 used red dye-stained money?

5 On January 16, the FBI, with local authorities, set up  
6 a surveillance team at the hotel, and they observed an  
7 individual later identified as Mr. Laperle exiting and going  
8 into a red or dark-colored Dodge Caravan minivan.

9 He put his bags in the car, at which point the car was  
10 stopped.

11 He was taken from the car and given his Miranda  
12 warnings.

13 On his person, Mr. Laperle had \$590 in red-stained U.S.  
14 currency. They searched the car. They found no weapons,  
15 but they found a brown paper bag containing \$7,345 in  
16 red-stained currency.

17 The vehicle was damaged, the ignition, and the vehicle  
18 was towed.

19 They searched the vehicle and they found a number of  
20 different items, including clothing, additional money, all  
21 of which matched up to the individual that was wearing that  
22 clothing participated and probably robbed the bank at the  
23 time.

24 And, just for purposes of the record, the bank, the  
25 Cambridge Trust Company, was, on the date of the robbery, a

1 federally insured deposit bank with the U.S. Government.

2 THE COURT: So there's no allegation of a weapon?

3 MR. SHINE: Absolutely no allegation of a weapon.

4 The individual jumped over the counter, opened the  
5 drawers, made some comments or statements to the tellers who  
6 were placed in fear. Money was taken. He then took the  
7 money out, left the bank and fled the area.

8 THE COURT: All right, Mr. Laperle, is that true,  
9 as the government has explained it to me?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: How did Connecticut get into this? Had  
12 you moved to Connecticut in the meantime?

13 THE DEFENDANT: It was just an address that I gave  
14 to --

15 THE COURT: Oh, to check into the motel?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Are you pleading guilty willfully,  
18 freely, and voluntarily?

19 THE DEFENDANT: Yes, I am.

20 THE COURT: Has anyone coerced you in a physical  
21 sense into pleading guilty?

22 THE DEFENDANT: No, your Honor.

23 THE COURT: Have any promises, other than the one  
24 we've discussed about the credit for the state time, been  
25 made to induce you to plead guilty?

1 THE DEFENDANT: No, your Honor.

2 THE COURT: Have any threats been made, other than,  
3 obviously, the threat of being prosecuted?

4 THE DEFENDANT: No, your Honor.

5 THE COURT: Have you had sufficient time to discuss  
6 with Ms. Fried the charge in the case, your rights, your  
7 possible defenses, and the consequences of pleading guilty?

8 THE DEFENDANT: Yes, I have, your Honor.

9 THE COURT: Do you believe she's acted at all times  
10 in your best interest?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: Ms. Fried, it's your recommendation  
13 that I accept the plea?

14 MS. FRIED: Yes, it is, your Honor.

15 THE COURT: Mr. Laperle, have I confused you by  
16 anything I said or any question I asked?

17 THE DEFENDANT: Not at all, your Honor.

18 THE COURT: So I am correct you're pleading guilty  
19 because you are guilty and, given the circumstances, you  
20 think that this -- well, "deal" I will call it, is the best  
21 thing in your own interest?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do counsel have anything else you would  
24 like me to inquire into?

25 MR. SHINE: The government has nothing else. Thank



1       you.

2               MS. FRIED: No. Nothing else from the defense.

3               THE COURT: All right, Mr. Laperle, would you step  
4 then back to counsel table with Ms. Fried.

5               (Pause in proceedings.)

6               THE COURT: All right. I find that Mr. Laperle is  
7 well-oriented, that his answers have been fully responsive  
8 to my questions.

9               I find that he understands the nature of the charge and  
10 the potential penalties that he faces.

11              I find he is certainly competent to enter a plea, and  
12 that he has done so with the full understanding of his  
13 rights and the consequences of waiving those rights.

14              I find there is a sufficient -- indeed, an overwhelming  
15 basis in the facts presented by the government to warrant a  
16 finding of guilt on the offense beyond a reasonable doubt.

17              In sum, I find that the plea is tendered voluntarily,  
18 with full knowledge of its consequences, and after careful  
19 consideration by the defendant of his own best interest.

20              I will accept the plea, and I will schedule sentencing  
21 for Thursday, May 12, 2011, at 2 p.m.

22              MR. SHINE: That's an acceptable date for the  
23 government, your Honor.

24              MS. FRIED: That's fine.

25              THE COURT: Okay.

1 All right, Mr. Laperle, I will see you then in May, and  
2 by then we should have the benefit of further guidance from  
3 the First Circuit.

4 THE DEFENDANT: Thank you, your Honor.

5 MS. FRIED: Your Honor, if by chance, Dancy has not  
6 been decided by then, would the Court entertain a motion?

7 THE COURT: Of course. I would rather get it right  
8 the first time --

9 MR. SHINE: Absolutely.

10 THE COURT: -- than the way I usually do it.

11 (Laughter.)

12 MR. SHINE: Thank you very much, your Honor.

13 THE CLERK: All rise.

14 Court is in recess.

15 (Proceedings adjourned.)  
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C E R T I F I C A T E

I, James P. Gibbons, Official Court Reporter for the United States District Court for the District of Massachusetts, do hereby certify that the foregoing pages are a true and accurate transcription of my shorthand notes taken in the aforementioned matter to the best of my skill and ability.

/s/James P. Gibbons

November 8, 2011

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James P. Gibbons

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